

CHAPTER 47
RULES ON THE QUALIFICATIONS, APPOINTMENT AND
COMPENSATION OF COURT INTERPRETERS

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CHAPTER 47

RULES ON THE QUALIFICATIONS, APPOINTMENT AND COMPENSATION OF COURT INTERPRETERS

[Prior to April 1, 2008, see Chapter 14]

Rule 47.1 Qualifications of a court interpreter.

47.1(1) Qualifications.

- a. Minimum age.* A court interpreter shall be at least 18 years old.
- b. Education.* A court interpreter shall have at least a high school diploma or its equivalent.
- c. Court interpreter application form.* A court interpreter shall complete an application form, developed by the director of the office of professional regulation, on which the interpreter shall provide information about the interpreter's education, experience, and references to assist the court in determining the interpreter's qualifications for court interpreting.
- d. Oath.* A court interpreter shall sign an oath asserting the interpreter has the knowledge and skills to be a competent court interpreter, that the interpreter understands and will abide by the Code of Professional Conduct for Judicial Branch Interpreters in Chapter 48 of the Iowa Court Rules, and that the interpreter will interpret in court to the best of the interpreter's ability.
- e. Criminal records search.* A criminal records search shall be completed by the director of the office of professional regulation. This requirement may be waived for an interpreter who has had a prior criminal records search completed by the director.
- f. Criminal record.* A person who has been convicted of the following types of crimes shall be barred from being a court interpreter:
 - (1) Felony. A person who has been convicted of a felony in any jurisdiction shall be barred from being a court interpreter. An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction.
 - (2) Other crime of dishonesty or moral turpitude. A person who has been convicted in any jurisdiction of a crime of dishonesty or moral turpitude, but less serious than a felony, shall be barred from being a court interpreter. The director of the office of professional regulation may waive this prohibition based on mitigating factors that include, but are not limited to: length of time since the offense, seriousness of the offense, age of the person at the time of the offense, evidence of the person's good character exhibited since the offense, and the person's candor in the application process.
- g. Disciplinary action in another jurisdiction.* An interpreter who has been barred or suspended from court interpreting in any other jurisdiction due to ethical violations or incompetence shall be similarly prohibited from being a court interpreter in Iowa.

47.1(2) Exceptions to court interpreter qualifications.

- a. Waiver of qualifications in civil proceedings.* In a civil proceeding when extraordinary circumstances exist, the court may waive one or more of the requirements of rules 47.1(1)(a)-(e). Whenever the court waives one or more of the qualifications under rule 47.1(1), the court must explain the reasons for the waiver on the record.
- b. Waiver of qualifications in criminal proceedings.*
 - (1) For an initial appearance in any criminal case or a simple misdemeanor proceeding in which a defendant will not be incarcerated, the court may waive one or more of the requirements of rules 47.1(1)(a)-(e) when extraordinary circumstances exist. Whenever the court waives one or more of the qualifications under rule 47.1(1), the court must explain the reasons for the waiver on the record.
 - (2) In all other criminal proceedings the court may waive one or more of the requirements of rules 47.1(1)(c)-(e) when extraordinary circumstances exist. The court may not waive the requirements of rules 47.1(1)(a)-(b). Whenever the court waives one or more of the qualifications under rule 47.1(1), the court must explain the reasons for the waiver on the record.

c. Extraordinary circumstances. Extraordinary circumstances exist when the court requires an interpreter of a language for which there is no interpreter who meets the qualifications under rule 47.1(1) who is reasonably available given the time constraints for conducting the hearing and the seriousness of the matter before the court.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

Rule 47.2 Appointment of a court interpreter. Whenever the court learns the services of an interpreter are reasonably necessary to ensure complete and accurate communication with a witness or party, court staff shall select a competent interpreter applying the criteria set forth in these rules. The court shall enter an order appointing the interpreter and setting the level of compensation for the interpreter. When a party needs an interpreter and the court expects the proceedings to be complex or lengthy, the court shall appoint more than one interpreter.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

Rule 47.3 Classification of interpreters — definitions.

47.3(1) Class A certified court interpreter for the deaf and hard-of-hearing. A Class A certified court interpreter for the deaf and hard-of-hearing is an interpreter who is listed on the directory provided by the Iowa Department of Human Rights and who holds a specialist certificate: legal (SC:L) from the National Testing System of the Registry of Interpreters for the Deaf.

47.3(2) Class B noncertified court interpreter for the deaf and hard-of-hearing. A Class B noncertified court interpreter for the deaf and hard-of-hearing is an interpreter who is listed on the directory provided by the Iowa Department of Human Rights and who holds a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), or both a certificate of interpretation (CI) and a certificate of transliteration (CT) from the National Testing System of the Registry of Interpreters for the Deaf.

47.3(3) Class A certified oral language court interpreter. A Class A certified oral language court interpreter is an interpreter who has done one of the following:

a. Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.

b. Taken court interpreter certification exams developed by the Consortium for Language Access in the Court and achieved scores that meet the requirements for certification established by the supreme court.

c. Taken court interpreter certification exams developed by another state or organization that the director of the office of professional regulation determines to be comparable to the consortium exams and achieved scores on the exams that meet the requirements for certification in Iowa.

47.3(4) Class B noncertified oral language court interpreter. A Class B noncertified oral language court interpreter is an interpreter who has done one of the following:

a. Taken one of the court interpreter certification exams identified in rule 47.3(3) and failed to achieve scores that meet the criteria for certification established by the supreme court but achieved a minimum score of 65 percent correct on each of the three parts of the oral interpretation exam.

b. Completed a college-level court interpreter training program approved by the director of the office of professional regulation with a grade point average of at least 3.0.

47.3(5) Class C noncertified oral language court interpreter. A Class C noncertified oral language court interpreter is an interpreter who has not met the criteria under rule 47.3(3) or rule 47.3(4) to be a Class A or B oral language court interpreter.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.4 Disclosures by and objections to a court interpreter.

47.4(1) A Class A certified court interpreter shall be presumed competent to interpret in all court proceedings. The court may, at any time, make further inquiry into the appointment of a particular interpreter.

47.4(2) Any disclosures an interpreter makes to the court regarding the interpreter's actual or apparent conflicts of interest or the interpreter's ability to adequately interpret the proceedings shall be made of record.

47.4(3) Objections regarding a court interpreter must be made within a reasonable time after the grounds for the objection become apparent. The court shall make rulings on objections of record.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

Rule 47.5 Statewide roster of court interpreters. The director of the office of professional regulation shall establish, maintain, and publish a statewide roster of court interpreters.

47.5(1) General requirements. To be included on the roster, an interpreter must meet the qualifications in rule 47.1 and be a Class A, B, or C court interpreter as defined in rule 47.3.

47.5(2) Ethics test requirement for all court interpreters. To be included on the roster, an interpreter must receive a passing score on a written test on the Code of Professional Conduct for Judicial Branch Interpreters, unless the interpreter has taken the same or a similar test in a state that is a member of the Consortium for Language Access in the Court and achieved a score that meets the standard for passing the test established by the supreme court.

47.5(3) Other test requirements for Class B and C court interpreters. To be included on the roster after January 1, 2007, a Class B or C interpreter must pass written tests approved by the director of the office of professional regulation that include the following areas: general English vocabulary, legal terminology, and legal procedures. One or more of these test requirements may be waived by the director of the office of professional regulation if the interpreter has taken the same or similar tests in another jurisdiction and achieved scores that meet the standards for passing the tests established in Iowa.

47.5(4) Court interpreter orientation program. To be included on the roster, an interpreter must complete the court interpreter orientation program approved by the director of the office of professional regulation. A Class A certified court interpreter is exempted from this requirement, and this requirement may be waived by the director of the office of professional regulation for a Class B or C noncertified interpreter who has completed a similar training program in another jurisdiction.

47.5(5) Continuing education requirements. The supreme court shall establish continuing education requirements an interpreter must meet to remain on the roster and, if certified, to retain certification status.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.6 Fees.

47.6(1) The application fee to be an oral or sign language interpreter is \$25. The fee shall be paid to the office of professional regulation at the time the application is filed in that office.

47.6(2) The fee to register for the written examination is \$40, unless the applicant already has passed at least one of the three parts of the examination, in which case the registration fee is \$20.

47.6(3) The fee for residents to register for the oral examination is \$200 for the first time, and \$150 for subsequent attempts. The fee for nonresidents to register for the oral examination is \$400 regardless of the number of times taken.

[Court Order August 10, 2009]

Rule 47.7 Priorities in the appointment of a court interpreter.

47.7(1) Court interpreters shall be classified in the following order of preference:

- a. Class A certified.
- b. Class B noncertified.
- c. Class C noncertified.

47.7(2) Whenever a court requires an interpreter, the court shall appoint an interpreter with the highest classification among those who are reasonably available, giving preference within each classification to those who are on the statewide roster.

47.7(3) Upon the appointment of a court interpreter, the court shall include in the record the interpreter's classification and qualifications.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.8 Disciplinary actions.

47.8(1) Establishment of a disciplinary process for court interpreters. The supreme court shall establish a disciplinary process that ensures due process for court interpreters formally accused of misconduct under rule 47.8(2).

47.8(2) Grounds for discipline. A court interpreter shall be subject to disciplinary action for any of the following reasons:

- a. Unprofessional or unethical conduct that violates the Code of Professional Conduct for Judicial Branch Interpreters.

b. Conviction, in this state or any other jurisdiction, of a felony or conviction of a lesser crime that involves dishonesty or moral turpitude; a crime is a felony if it is so defined in the jurisdiction where the conviction was entered at the time of the conviction.

c. Disciplinary action taken in conjunction with the interpreter's services in another jurisdiction.

d. Incompetence, which includes but is not limited to, repeated incomplete or inaccurate interpretation that significantly inhibits or distorts communications between a non-English-speaking person and the court or between a non-English-speaking person and that person's attorney.

e. Receipt of a certificate of noncompliance from the Child Support Recovery Unit, pursuant to the procedures set forth in Iowa Code chapter 252J.

f. Receipt of a certificate of noncompliance from the College Student Aid Commission, pursuant to the procedures set forth in Iowa Code chapter 261.

g. Receipt of a certificate of noncompliance from the Centralized Collection Unit of the Department of Revenue, pursuant to the procedures set forth in Iowa Code chapter 272D.

47.8(3) *Types of sanctions.* When there are grounds for sanctioning a court interpreter for misconduct, the sanctions may include, but are not limited to, one or more of the following:

a. A private or public reprimand;

b. Refunding fees to a client or government agency for court interpreter services;

c. Requiring that the court interpreter take specified education courses;

d. Requiring that the court interpreter's work be supervised for a period of time;

e. Permanent or temporary suspension of the court interpreter's certification or roster status; or

f. Permanent or temporary bar from being appointed as a court interpreter.

47.8(4) *Continuing duty to disclose.* A court interpreter has a continuing duty to disclose to the director of the office of professional regulation any criminal conviction or disciplinary action against the interpreter in another state or federal jurisdiction that could result in disciplinary action under this rule.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009]

Rule 47.9 Recording of proceedings. A recording shall be made and maintained of those portions of court proceedings where an oral language court interpreter is used. The audio recording shall be maintained in the same manner as court reporters' notes.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.10 Court interpreter compensation.

47.10(01) *Claims for compensation.* After the close of proceedings, the interpreter shall submit a claim for compensation to the court. Upon review and approval of the claim, the court shall enter an order setting the maximum amount of compensation that may be paid to the interpreter.

47.10(2) *Fees for court interpreters.* The state court administrator shall establish a standard statewide fee schedule for court interpreters.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.11 Application of rules to administrative agency proceedings. To the extent an administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or section 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings and for approving their claims for compensation.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

Rule 47.12 Budget. The director of the office of professional regulation shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget, covering the operations provided for in this chapter for the upcoming fiscal year. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the court interpreter operating account shall be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter

or in accordance with an approved interagency agreement shall be deposited in the court interpreter operating account for payment of the expenditures authorized by the approved budget.

[Court Order February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009]

Rule 47.13 Applicability of Iowa Tort Claims Act. Claims against the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

[Court Order June 5, 2008, effective July 1, 2008; August 10, 2009]